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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,994	06/19/2003	Damon Larson	47361.2.1	5796
22859	7590	11/07/2005		
INTELLECTUAL PROPERTY GROUP FREDRIKSON & BYRON, P.A. 200 SOUTH SIXTH STREET SUITE 4000 MINNEAPOLIS, MN 55402			EXAMINER ROSEN, NICHOLAS D	
			ART UNIT 3625	PAPER NUMBER

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/600,994	Applicant(s) LARSON, DAMON	
	Examiner Nicholas D. Rosen	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-39 have been examined.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 has been amended to recite that the server application is adapted to route data to one or more retailer network sites "for automatic purchase of products at the retailer network sites without consumer intervention," which is not adequately described in the specification. The specification, particularly at pages 14 and 15, describes transferring data to eRetailer websites, but does not describe "automatic purchase of products at the retailer network sites without consumer intervention." On page 15, lines 9-11, the specification refers to "cases in which the retailer's eCommerce program does not require the consumer to finalize the purchase," but in these cases, "the SAH Application 1105 simply reports back to the consumer the status of the transfer once the data transfer to the one or more retailer's websites 1135 and 1140 is complete." There is no description of the SAH Application

actually making a purchase without consumer intervention, as opposed to transferring data to a shopping cart for later consumer action, and reporting on the status of the data transfer.

Claims 29-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 29 has been amended to recite using a server application "for automatic purchase of products at the retailer network sites without consumer intervention," which is not adequately described in the specification. The specification, particularly at pages 14 and 15, describes transferring data to eRetailer websites, but does not describe "automatic purchase of products at the retailer network sites without consumer intervention." On page 15, lines 9-11, the specification refers to "cases in which the retailer's eCommerce program does not require the consumer to finalize the purchase," but in these cases, "the SAH Application 1105 simply reports back to the consumer the status of the transfer once the data transfer to the one or more retailer's websites 1135 and 1140 is complete." There is no description of the SAH Application actually making a purchase without consumer intervention, as opposed to transferring data to a shopping cart for later consumer action, and reporting on the status of the data transfer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24

Claims 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piotrowski (U.S. Patent Application Publication 2003/0088496) in view of Dorenbosch (U.S. Patent Application Publication 2002/0198795) and official notice. As per claim 1, Piotrowski discloses a shopping system comprising: a scanner adapted to scan one or more product tags (Abstract; paragraphs 8, 9 and 10); a processing device accessible to a network, the processing device operatively coupled to the scanner (paragraphs 8, 9, 10, 20, and 21); a server on the network adapted to receive the transferred data (the service nodes 110; Figure 1, and paragraphs 9, 16, 19, 28, and 36). Piotrowski does not expressly disclose a client application installed on the processing device (unless the software programs of paragraph 36 inherently include an appropriate application, which is arguable), the client application adapted to read scanned data from the scanner and to transfer the data over the network, but official notice is taken that it is well known for processing devices to have client applications. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for such a client application to be installed on the processing device, for the obvious advantage of

enabling the processing device to carry out its described functions. Similarly, Piotrowski does not expressly disclose a server application configured to run on the server, the server application adapted to route at least portions of the transferred data to one or more retailer network sites, but does disclose contacting retailer network sites (paragraphs 8, 9, 10, 20, 28), and, as above, application programs are well known, making the server application obvious for the advantage of enabling the system to carry out its described functions.

Piotrowski does not disclose transferring data to one or more retailer network sites for automatic purchase of products at the retailer network sites without consumer intervention, the products being associated with the product tags. However, Dorenbosch teaches automatically purchasing, via on-line shopping, listed items without consumer intervention (paragraph 20), the products, moreover, being associated with product tags (Abstract; paragraphs 9, 10, 12, 18, and 19). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to transfer data to one or more retailer sites for automatic purchase of products at the retailer network sites without consumer intervention, the products being associated with the product tags, for the stated advantage (paragraph 3 of Dorenbosch) of replenishing supplies without requiring consumers to pay attention to supply levels and involve themselves in ordering.

As per claim 2, Piotrowski discloses a wireless and handheld mechanism (paragraphs 20 and 21).

As per claim 4, the scanner in Piotrowski's system must be adapted to decode the scanned product tags to carry out its disclosed functions. Piotrowski does not expressly disclose storing the values within memory, but official notice is taken that it is well known to store data in memory; arguably, at least temporary storage would be necessary to transmit the data, as Piotrowski discloses. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to store the values in memory, for such obvious advantages as being able to resend the data should there be any difficulty transmitting the data to the server, and maintaining the data for future efforts to find the cheapest vendors of desired products.

As per claim 5, Piotrowski discloses that the product tags can comprise barcodes (paragraphs 9 and 20).

As per claim 6, Piotrowski discloses that the processing device can comprise a personal computer (paragraph 21).

As per claim 7, Piotrowski discloses that the processing device can comprise wireless telephone (paragraph 21), and discloses a cellular interface (paragraphs 20 and 27), which would make the wireless telephone a cell phone.

As per claim 8, Piotrowski discloses that the processing device comprises a personal digital assistant (paragraphs 20 and 21).

As per claims 9, 10, and 11, Piotrowski discloses that the network comprises an inter-network, a public network, and the Internet (paragraphs 16 and 19).

As per claim 12, Piotrowski discloses that the server can comprise a website (paragraphs 15 and 19).

As per claim 13, Piotrowski does not expressly disclose that the server comprises a database adapted for storing the transferred data (although the server in Piotrowski does comprise a database; paragraph 31). However, the server in Piotrowski would necessarily store the transferred data in order to carry out its described functions (paragraphs 9, 16, 19, 28, and 36), implying a database in which the data are stored.

As per claim 14, Piotrowski does not expressly disclose that the client application is adapted to be activated manually by a consumer through the processing device, but official notice is taken that it is well known for client applications to be activated manually by a user through a processing device (e.g., by pressing a button, clicking on an icon, etc.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the client application to be adapted to be activated manually by a consumer through the processing device, for the obvious advantage of causing the client application to be activated when desired.

As per claim 16, Piotrowski does not disclose that the client application is adapted to create a secure network connection between the processing device and the server, but official notice is taken that secure network connections are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the client application to be adapted to

create a secure network connection, for the obvious advantage of preventing private data from being intercepted.

As per claim 17, Piotrowski discloses that data is transferred (e.g., paragraph 20), from which creating one or more streams of data to transfer is inherent.

As per claim 18, Piotrowski discloses the use of XML (paragraphs 22-24), implying that data streams are formatted using it.

As per claim 24, Piotrowski discloses the server transferring data to one or more retailer network sites (paragraphs 8, 9, 10, 20, 28), which implies an appropriate server controller configured to facilitate the transfer, since servers and other computers do not operate without programming.

Claims 3 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piotrowski, Dorenbosch, and official notice as applied to claims 2 and 1, respectively, above, and further in view of Mulla et al. (U.S. Patent 6,311,896). As per claim 3, Piotrowski does not disclose that the scanner is adapted to be removable from a downloading cradle that is operatively connected to the processing device, but Mulla teaches a scanner adapted to be removable from a downloading cradle that is operatively connected to a processing device (Figures 1, 2, and 3; column 3, line 37, through column 4, line 4). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the scanner to be adapted to be removable from a downloading cradle that is operatively connected to the processing device, for the stated advantage of providing a scanner/reader that is easy to use (column 3, lines 26-30).

As per claim 15, Piotrowski does not disclose that the client application is adapted to be activated automatically through the coupling of the scanner to the processing device, but Mulla teaches activating a downloading of data from a scanner based on detecting that the scanner is coupled to the appropriate processing device (Figures 1, 2, and 3; column 3, line 37, through column 4, line 4; column 10, lines 19-23). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the client application to be adapted to be activated automatically through the coupling of the scanner to the processing device, for the obvious advantage of sparing a user the trouble of taking additional action to activate the client application.

Claims 19, 20, 21, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piotrowski, Dorenbosch, and official notice as applied to claim 17 above, and further in view of the anonymous article "Sabre Simplifies Rental Car Shopping W/Geosearch Feature," hereinafter "Sabre." As per claim 19, Piotrowski discloses that the data includes scanned data (Abstract; paragraphs 8, 9, 10, 20, 21, and 28), and discloses profiles associated with users (paragraph 31), which would be pointless without customer data differentiation data to indicate which user or scanner/processor data was coming from. Piotrowski does not disclose that the data includes client application parameters, but, first, this can be considered non-functional descriptive material, since claim 19 does not recite any use of the client application parameters; and, secondly, "Sabre" teaches client application parameters (especially paragraph beginning "Using the tool"). Hence, it would have been obvious to one of

ordinary skill in the art of electronic commerce at the time of applicant's invention for the streams of data to include client application parameters, for the stated advantage of including or excluding specific vendors as may be desired by a user.

As per claim 20, Piotrowski discloses the server receiving and interpreting data (Abstract; paragraphs 8, 9, 10, 19, 28, 31, and 36).

As per claim 21, Piotrowski does not disclose that the server is adapted to determine if the scanned data is specific to the one or more retailers based on the client application parameters, but "Sabre" teaches determining whether data is specific to one or more retailers based on client application parameters (the teaching of inputting client application parameters, as by including or excluding specific car vendors, is held to imply making the determination, in order to return results accordingly).

As per claim 22, storing the data is obvious over Piotrowski, as set forth above in rejecting claim 13, and Piotrowski implies doing this with no teaching that the scanned data is specific to one or more retailers; in Piotrowski, the data is apparently not specific to any one retailers, but used to find alternative retailers for products that are widely available.

As per claim 23, "Sabre" teaches a "comprehensive rate shop and booking tool" (paragraph beginning "Sabre Cars is a"), implying that the data is routed to appropriate retailers to check rates and, if desired, book auto rentals; the choice of retailer sites can apparently depend on including or excluding specific vendors in the client application parameters. Thus, it is obvious for the server to route the one or more streams of data to one or more retailer network sites, for the obvious advantage of attempting to do

Art Unit: 3625

business with retailers likely to have the desired product, or otherwise to be compatible with the customer's desires, rather than with retailers who are not.

Claims 25 and 26

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piotrowski (U.S. Patent Application Publication 2003/0088496) in view of official notice. As per claim 25, Piotrowski discloses a shopping system comprising: means for reading and storing one or more product tags (Abstract; paragraphs 8, 9 and 10); a processing device accessible to a network, the processing device operatively coupled to the means (paragraphs 8, 9, 10, 20, and 21); a server on the network adapted to receive the transferred data (the service nodes 110; Figure 1, and paragraphs 9, 16, 19, 28, and 36). Piotrowski does not expressly disclose a client application installed on the processing device (unless the software programs of paragraph 36 inherently include an appropriate application, which is arguable), the client application adapted to read stored data acquired from the scanning means and to transfer the data over the network, but official notice is taken that it is well known for processing devices to have client applications. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for such a client application to be installed on the processing device, for the obvious advantage of enabling the processing device to carry out its described functions. Similarly, Piotrowski does not expressly disclose a server application configured to run on the server, the server application adapted to route the transferred data to one or more retailer network sites, but does disclose contacting retailer network sites (paragraphs 8, 9, 10, 20, 28), and, as

Art Unit: 3625

above, application programs are well known, and obvious for the purpose of enabling the system to carry out its described functions, making the server application obvious.

Piotrowski does not expressly disclose that the server application is adapted to signal the client application if the routing is successful, and complete a purchase at the one or more retailer network sites by directing a consumer to the one or more retailer network sites via one or more of the client application and the server application, but does disclose a consumer completing a sales transaction at one or more retailer network sites (paragraphs 28 and 29), after one or more competitive bids are received at a client terminal (paragraph 28). The receipt of the bids is held to comprise receipt of a signal, and from the nature of the Internet, and the use of servers for the terminal to communicate (paragraph 19), the involvement of a server application in doing these is held to be obvious, for the purpose of enabling the system to carry out its described functions.

As per claim 26, Piotrowski discloses that the means comprises a scanner (paragraph 9).

Claims 27 and 28

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piotrowski (U.S. Patent Application Publication 2003/0088496) in view of Schein et al. (U.S. Patent 6,226,623) and official notice. As per claim 27, Piotrowski discloses a shopping system comprising: means for reading and storing one or more product tags, the means being accessible to a network (Abstract; paragraphs 8, 9 and 10); and a server on the network adapted to receive the transferred data (the service nodes 110;

Art Unit: 3625

Figure 1, and paragraphs 9, 16, 19, 28, and 36). Piotrowski does not expressly disclose client and server applications, but (as above, with regard to claim 25) official notice is taken that applications are well known, and Piotrowski does disclose transferring data over the network to the server and contacting retailer network sites through the server (paragraphs 8, 9, 10, 20, 28), which also implies reading the data. Hence, as with claim 25, applications are well known, and would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the obvious advantage of enabling the system to carry out its described functions, making the server application obvious.

Piotrowski discloses the client (remote terminal) interpreting the data, presumably using data stored in a database, and routing at least portions of the data interpreted as being specific to one or more network retailers to the one or more retailer network sites (paragraph 28), but does not disclose a server application with a controller doing this, and also storing portions of the transferred data interpreted as not being specific to one or more network retailers, although Piotrowski does disclose that a wide variety of system architectures, including server-side and client-side architectures, can be used to implement his system (paragraph 30). However, Schein teaches servers which determine, on the basis of request data, which service provider is appropriate to receive a request, and routers routing requests to the appropriate service provider (column 12, lines 20-48); hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have a server do this, for the obvious advantage of having it done conveniently, e.g., by requiring a

Art Unit: 3625

database of which retailers are appropriate for which products to be maintained and updated in one server, instead of many remote terminals possessed by different consumers.

Official notice is taken that it is well known for servers to store data. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the server store portions of the transferred data interpreted as not being specific to one or more network retailers, for the obvious advantage of having the data available to manipulate in finding appropriate retailers, submitting bids, informing customers of which retailers had submitted bids, etc.

As per claim 26, Piotrowski discloses that the means comprises a scanner (paragraph 9).

Claims 29-39

Claims 29, 30, 32, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piotrowski (U.S. Patent Application Publication 2003/0088496) in view of Dorenbosch (U.S. Patent Application Publication 2002/0198795) and official notice. As per claim 29, Piotrowski discloses a method of shopping comprising: scanning one or more product tags using a scanner (Abstract; paragraphs 8, 9, 10, and 20); coupling the scanner to a processing device accessible to a network (Abstract; paragraphs 8, 9, 10, 20, and 28; Figure 1); transferring the scanned data to a server over the network (Abstract; paragraphs 8, 9, 10, 20, and 28; Figure 1); and transferring at least portions of the scanned data to one or more retailer network sites from the server (Abstract; paragraphs 8, 9, 10, 20, and 28; Figure 1). Piotrowski does not

Art Unit: 3625

expressly disclose that the transferring steps are done using a client application and a server application, but official notice is taken that applications are well known (and note the software programs of paragraph 36). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the transfers to be carried out using appropriate client and server applications, for the obvious advantage of enabling the system of Piotrowski to carry out its described functions.

Piotrowski does not disclose transferring data to one or more retailer network sites for automatic purchase of products at the retailer network sites without consumer intervention, the products being associated with the product tags. However, Dorenbosch teaches automatically purchasing, via on-line shopping, listed items without consumer intervention (paragraph 20), the products, moreover, being associated with product tags (Abstract; paragraphs 9, 10, 12, 18, and 19). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to transfer data to one or more retailer sites for automatic purchase of products at the retailer network sites without consumer intervention, the products being associated with the product tags, for the stated advantage (paragraph 3 of Dorenbosch) of replenishing supplies without requiring consumers to pay attention to supply levels and involve themselves in ordering.

As per claim 30, the step of scanning in Piotrowski's system must involve decoding the scanned product tags for Piotrowski's system carry out its disclosed functions. Piotrowski does not expressly disclose storing the values within memory, but

Art Unit: 3625

official notice is taken that it is well known to store data in memory; arguably, at least temporary storage would be necessary to transmit the data, as Piotrowski discloses. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to store the values in memory, for such obvious advantages as being able to resend the data should there be any difficulty transmitting the data to the server, and maintaining the data for future efforts to find the cheapest vendors of desired products.

As per claim 32, Piotrowski does not expressly disclose activating the client application manually by a consumer through the processing device, but official notice is taken that it is well known for client applications to be activated manually by a user through a processing device (e.g., by pressing a button, clicking on an icon, etc.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the client application to be activated manually by a consumer through the processing device, for the obvious advantage of causing the client application to be activated when desired.

As per claim 33, Piotrowski does not disclose creating a secure network connection between the processing device and the server, but official notice is taken that secure network connections are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to create such a secure network connection, for the obvious advantage of preventing private data from being intercepted.

Art Unit: 3625

As per claim 34, Piotrowski discloses that data is transferred (e.g., paragraph 20), from which creating one or more streams of data to transfer is inherent.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Piotrowski, Dorenbosch, and official notice as applied to claim 29 above, and further in view of Mulla et al. (U.S. Patent 6,311,896). Piotrowski does not disclose that coupling the scanner to a processing device comprising connecting the scanner to a downloading cradle that is connected to the processing device, but Mulla teaches coupling a scanner to a processing device by connecting the scanner to a downloading cradle that is coupled to a processing device (Figures 1, 2, and 3; column 3, line 37, through column 4, line 4; column 10, lines 19-23). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to thus connect the scanner, for the stated advantage of providing a scanner/reader that is easy to use (column 3, lines 26-30).

Claims 35, 36, 37, 38, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piotrowski, Dorenbosch, and official notice as applied to claim 17 above, and further in view of the anonymous article "Sabre Simplifies Rental Car Shopping W/Geosearch Feature," hereinafter "Sabre." As per claim 35, Piotrowski discloses that the data includes scanned data (Abstract; paragraphs 8, 9, 10, 20, 21, and 28), and discloses profiles associated with users (paragraph 31), which would be pointless without customer data differentiation data to indicate which user or scanner/processor data was coming from. Piotrowski does not disclose that the data includes client application parameters, but, first, this can be considered non-functional

descriptive material, since claim 35 does not recite any use of the client application parameters, and, secondly, "Sabre" teaches client application parameters (especially paragraph beginning "Using the tool"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the streams of data to include client application parameters, for the stated advantage of including or excluding specific vendors as may be desired by a user.

As per claim 36, Piotrowski discloses interpreting data to use it (Abstract; paragraphs 8, 9, 10, 19, 28, 31, and 36).

As per claim 37, Piotrowski does not disclose that the server is adapted to determine if the scanned data is specific to the one or more retailers based on the client application parameters, but "Sabre" teaches determining whether data is specific to one or more retailers based on client application parameters (the teaching of inputting client application parameters, as by including or excluding specific car vendors, is held to imply making the determination, in order to return results accordingly).

As per claim 38, storing the data is obvious over Piotrowski, as set forth above in rejecting claim 13, and Piotrowski implies doing this with no teaching that the scanned data is specific to one or more retailers; in Piotrowski, the data is apparently not specific to any one retailers, but used to find alternative retailers for products that are widely available.

As per claim 39, "Sabre" teaches a "comprehensive rate shop and booking tool" (paragraph beginning "Sabre Cars is a"), implying that the data is routed to appropriate retailers to check rates and, if desired, book auto rentals; the choice of retailer sites can

apparently depend on including or excluding specific vendors in the client application parameters. Thus, it is obvious for the server to route the one or more streams of data to one or more retailer network sites, for the obvious advantage of attempting to do business with retailers likely to have the desired product, or otherwise to be compatible with the customer's desires, rather than with retailers who are not.

Response to Arguments

Applicant's arguments with respect to claims 1-24 and 27-39 have been considered but are moot in view of the new ground(s) of rejection. Piotrowski does not disclose all elements of these claims as amended, even in combination with the well-known facts of which official notice was taken, but other prior art has now been combined with Piotrowski, and motivations to combine have been adduced, as set forth above.

Applicant's arguments with regard to claim 25 (and thus to dependent claim 26) have been considered, but have not been found persuasive. Applicant argues that Piotrowski does not teach the aspect of completing a purchase at one or more retailer network sites by directing a consumer to the one or more retailer network sites, but Examiner has indeed found this obvious over Piotrowski, as set forth in the revised rejection above.

The common knowledge or well-known in the art statements in the previous office action are taken to be admitted prior art, because Applicant did not traverse Examiner's taking of official notice.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sampath (U.S. Patent 6,892,317) discloses systems and methods for failure prediction, diagnosis, and remediation using data acquisition and feedback for a distributed electronic system, and in particular discloses a server determining appropriate routing to a vendor, etc. (column 1, line 66, through column 2, line 6). Gellman (U.S. Patent Application Publication 2002/0035536) discloses a method and system for forming a list-based value discovery network (and in paragraph 36, one embodiment has a system programmed to automatically submit a shopping list for auction, and accept the lowest bid without consumer intervention). Coppinger et al. (U.S. Patent Application Publication 2005/0209930) disclose a system and method for deploying application program components having an application server.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3625

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas D. Rosen

NICHOLAS D. ROSEN
PRIMARY EXAMINER

November 2, 2005